

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

DESMOND QUICK,

Plaintiff,

vs.

9:14-CV-1503
(TJM/CFH)

JOHN OMITTEE, *et al.*,

Defendants.

THOMAS J. McAVOY,
Senior United States District Judge

DECISION & ORDER

I. INTRODUCTION

This *pro se* action brought pursuant to 42 U.S.C. § 1983 was referred to the Hon. Christian F. Hummel, United States Magistrate Judge, for a Report and Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c).

In his August 11, 2016 Report-Recommendation and Order, Dkt. No. 74, Magistrate Judge Hummel recommends that defendants' motion for dismissal (Dkt. No. 50) of plaintiff's amended complaint (Dkt. No. 38) be granted, and that all claims in plaintiff's amended complaint be dismissed without prejudice because of plaintiff's failure to exhaust his administrative remedies pursuant to 42 U.S.C. § 1997e(a). Plaintiff filed objections to the recommendations. Dkt. No. 76.

II. STANDARD OF REVIEW

When objections to a magistrate judge's report and recommendation are lodged, the

district court makes a “*de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” See 28 U.S.C. § 636(b)(1); see also United States v. Male Juvenile, 121 F.3d 34, 38 (2d Cir. 1997) (The Court must make a *de novo* determination to the extent that a party makes specific objections to a magistrate’s findings.). “[E]ven a *pro se* party’s objections to a Report and Recommendation must be specific and clearly aimed at particular findings in the magistrate’s proposal, such that no party be allowed a second bite at the apple by simply relitigating a prior argument.” Machicote v. Ercole, 2011 WL 3809920, at * 2 (S.D.N.Y., Aug. 25, 2011)(citations and interior quotation marks omitted); DiPilato v. 7-Eleven, Inc., 662 F. Supp.2d 333, 340 (S.D.N.Y. 2009)(same).

General or conclusory objections, or objections which merely recite the same arguments presented to the magistrate judge, are reviewed for clear error. Farid v. Bouey, 554 F. Supp. 2d 301, 306 n. 2 (N.D.N.Y. 2008); see Frankel v. N.Y.C., 2009 WL 465645 at *2 (S.D.N.Y. Feb. 25, 2009). After reviewing the report and recommendation, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions.” 28 U.S.C. § 636(b).

III. DISCUSSION

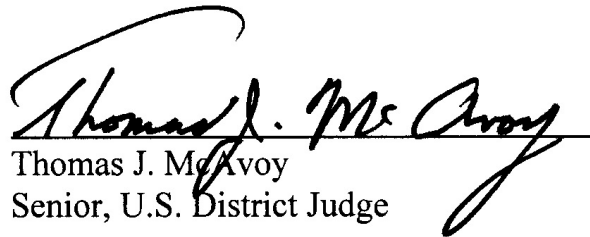
Plaintiff’s objections are general and conclusory and failed to point to clear error. Moreover, having considered Plaintiff’s objections and having completed a *de novo* review of the issue raised by the objections, the Court accepts and adopts Magistrate Judge Baxter’s recommendations for the reasons stated in his thorough report.

IV. CONCLUSION

For the reasons discussed above, the Court accepts and adopts Magistrate Judge Hummel's August 11, 2016 Report-Recommendation and Order, Dkt. No. 74, in its entirety. Accordingly, defendants' motion for dismissal (Dkt. No. 50) of plaintiff's amended complaint (Dkt. No. 38) is GRANTED. All claims in plaintiff's amended complaint are DISMISSED without prejudice because of plaintiff's failure to exhaust his administrative remedies pursuant to 42 U.S.C. § 1997e(a).

IT IS SO ORDERED.

Dated: September 20, 2016


Thomas J. McAvoy
Senior, U.S. District Judge